

**HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

WRIT PETITION No.21393 of 2007

Date: 23-10-2007.

Between :

M/s.Plaza Traders, Hyderabad,
rep. by its Proprietrix Mrs.Asma Firdous.

.....Petitioner

And

The State of Andhra Pradesh, rep. by its
Prl.Secretary, Commercial Taxes Department, Hyderabad
and others.

.....Respondents.

**HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

WRIT PETITION No.21393 of 2007

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

An order of assessment passed on 13th of March 2007 is challenged before this Court in this writ petition on the ground that no notice was served on the petitioner before the assessment order was passed. Counsel for petitioner also contended that he had placed an audit report before the Assessing Officer, which was not taken into consideration.

Counter affidavit has been filed, in which, it is stated that a notice was given to the petitioner on 16.09.2006, which was received by her on 21.09.2006 and since no reply was filed, an order of assessment was passed on 13th of March 2007. At one place in the counter affidavit it is stated that the notice was served on an adult member

of the petitioner's family, but there is no record to show that an attempt was made to serve the notice on the petitioner and having failed in such an attempt, the notice was served on the adult member of the family, which is the mandate of Rule 58 of the Rules framed under the Andhra Pradesh General Sales Tax Act, 1957. These Rules lay down that the notice should be served on the assessee and in case the Department fails to find the assessee, then notice should be served on the adult member of the family. In this view of the matter, we feel that the order of assessment cannot sustain. However, for these reasons, we do not go to the second ground and in case the audit report has any relevance, the assessing authority shall take into consideration that report, as we are remanding the matter to him. The petitioner is already in possession of a show cause notice as on today. Therefore, we direct him to file a reply to the show cause notice within one week from today and appear in person or through her authorized representative before the assessing authority on 30th of October 2007. The Commercial Tax Officer shall, after hearing the petitioner, pass appropriate orders in accordance with law.

The order impugned is quashed and the writ petition is allowed to the extent mentioned hereinabove.

BILAL NAZKI, J

23rd October 2007.

RAMESH RANGANATHAN, J

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N.B:

Copy of the order shall be made available to the
Counsel for petitioner within two days.

(b/o)

ajr